

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Erin Knight	Team: Team # 2	CCRB Case #: 200410077	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 10/09/2004 5:15 PM	Location of Incident: § 87(2)(b) Manhattan	Precinct: 28	18 Mo. SOL 4/9/2006	EO SOL 4/9/2006	
Date/Time CV Reported Sun, 10/10/2004 12:34 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 10/10/2004 12:34 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Brian Davis	25667	931624	028 PCT
2. DTS James Finnigan	05789	888709	028 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Daniel Freifeld	31501	931507	028 PCT
2. POM Nicholas Basile	24603	918735	028 PCT

Officer(s)	Allegation	Investigator Recommendation
A.DTS James Finnigan	Abuse: Detective James Finnigan did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)
B.POM Brian Davis	Abuse: Officer Brian Davis did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)
C.POM Brian Davis	Abuse: Officer Brian Davis threatened to arrest § 87(2)(b)	§ 87(2)(b)

Synopsis

§ 87(2)(b) filed this complaint with the CCRB on October 9, 2004 following an incident at an apartment building located at § 87(2)(b) in Manhattan, where § 87(2)(b) is § 87(2)(b), that concluded with § 87(2)(b) seeking medical treatment. § 87(2)(b) claimed that Officer Brian Davis and Detective James Finnigan came to the apartment building in response to a 911 call that a neighbor made on his behalf after a struggle with a tenant, § 87(2)(b). According to § 87(2)(b) although he informed the officers that he was injured in the struggle, an ambulance was ordered for § 87(2)(b) instead, and Detective Finnigan and Officer Davis prohibited § 87(2)(b) from seeking medical treatment (Allegations A and B). Despite Officer Davis' order to not speak with the Emergency Medical Technicians, § 87(2)(b) decided to approach the ambulance anyway. Officer Davis stopped § 87(2)(b) and informed him that he would be arrested if he bothered the EMTs (Allegation C). Frustrated, § 87(2)(b) called a car service to take him to § 87(2)(b) where he received medical treatment in the Emergency Room.

The Emergency Medical Technicians, § 87(2)(b) and § 87(2)(b) were interviewed in connection with this complaint. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

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§ 87(2)(b)

Summary of Complaint

§ 87(2)(b) a § 87(2)(b)-old § 87(2)(b) was interviewed at the CCRB on October 18, 2004. § 87(2)(b) explained that he has had numerous problems with § 87(2)(b) a tenant § 87(2)(b). These problems have forced § 87(2)(b) to file for an Order of Protection against § 87(2)(b) with the New York Supreme Court. By his own accord, § 87(2)(b) has submitted at least 4 or 5 Complaint Reports with the 28th Precinct against § 87(2)(b) and the police and FDNY EMS have responded to his apartment concerning incidents that have been provoked by § 87(2)(b). § 87(2)(b) was very upset that he and his wife are in an unsafe situation and the police have not helped them. According to § 87(2)(b) on October 1, 2004, § 87(2)(b) was rushed to § 87(2)(b) due to an altercation with § 87(2)(b) and added that it was important for his wife to recover in a safe environment without added stress.

On October 9, 2004 at approximately 5:00 PM, § 87(2)(b) was delivering mail to tenants in the building, except for § 87(2)(b) who lives on the 4th floor. § 87(2)(b) was on his way to the 5th floor when § 87(2)(b) accosted him in the 4th floor hallway, attacking him in an attempt to force § 87(2)(b) to drop his petition for an Order of Protection. § 87(2)(b) tried to punch § 87(2)(b) and then backed § 87(2)(b) up against the stairway rail with his arms around him, squeezing § 87(2)(b) causing injury to his chest. § 87(2)(b) called for help, and two tenants from the third floor, § 87(2)(b) and § 87(2)(b) came to his assistance. A third tenant on the third floor, § 87(2)(b) called 911. § 87(2)(b) was gasping for breath, so he went directly to his basement apartment to recover after § 87(2)(b) released him. § 87(2)(b) explained that he had an internal medical condition that causes him to easily become short of breath.

§ 87(2)(b) stayed in his apartment for approximately a minute before exiting through the external door onto the sidewalk. Once outside, § 87(2)(b) heard ambulance sirens in the distance and saw four uniformed male police officers. § 87(2)(b) identified three of the officers as Officer Brian Davis, an African American male, Officer Daniel Freifeld and Detective James Finnigan, both Caucasian males. § 87(2)(b) ascertained Officer Davis and Detective Finnigan's names from their shields, and Officer

Freifeld's name from the bottom of an Incident Information Slip that § 87(2)(b) later received. Officer Davis and Officer Freifeld were walking up the stairs into the building. § 87(2)(b) tried to speak with them, but they told him to stay downstairs and then continued on their way inside. § 87(2)(b) stood on the sidewalk with the other two officers, Detective Finnigan and his partner (identified from police documents as Officer Nicholas Basile). § 87(2)(b) attempted to explain what occurred upstairs to Detective Finnigan, but Detective Finnigan ignored him. It became apparent to § 87(2)(b) that Detective Finnigan did not know that the first call to 911 was made on § 87(2)(b)'s behalf.

Minutes later, the FDNY Emergency Medical Technicians arrived, and § 87(2)(b) recognized them as the same men who assisted his wife on § 87(2)(b). § 87(2)(b) asked Detective Finnigan if he could speak with the EMS personnel about his injuries, but Detective Finnigan asked to see § 87(2)(b)'s injuries first and § 87(2)(b) complied. Detective Finnigan told § 87(2)(b) that he did not look injured and couldn't "see what the big deal was". § 87(2)(b) believed that Detective Finnigan did not permit him to speak with the EMTs because he could not see any physical injuries except for redness on his chest.

Officer Davis and Officer Freifeld came downstairs, and § 87(2)(b) decided to try to approach the EMS personnel on his own. Officer Davis detained § 87(2)(b) by the arm, telling him to leave the EMTs alone. § 87(2)(b) admittedly became upset and raised his voice at Officer Davis because there was "no way to be calm and collected when you get denied the ambulance for health reasons". Officer Davis told § 87(2)(b) that the ambulance was for individuals who were actually injured and threatened to arrest § 87(2)(b) for Disorderly Conduct if he went over to the ambulance. When § 87(2)(b) explained that he was the injured party, Officer Davis replied that § 87(2)(b) told him that § 87(2)(b) instigated the fight. § 87(2)(b) was frustrated because he did not believe that Officer Davis was authorized to make a medical decision. § 87(2)(b) did not know if Detective Finnigan spoke with either Officer Davis or the EMTs about his alleged injuries. § 87(2)(b) and § 87(2)(b) appeared on the sidewalk and tried to speak with the officers. It seemed to § 87(2)(b) that the officers did not want to take § 87(2)(b) and § 87(2)(b) statements regarding the incident. Because Officer Davis and Detective Finnigan would not allow him to speak to the EMTs, § 87(2)(b) decided call a car service to take him to § 87(2)(b). The car service arrived before the police officers left, so § 87(2)(b) asked the officers for paperwork about what had happened. Officer Freifeld gave § 87(2)(b) an "Incident Information Slip" listing the incident as "harassment". At the hospital, the doctor diagnosed § 87(2)(b) with blunt trauma to the chest and prescribed a painkiller medication.

On October 10, 2004, § 87(2)(b) went to the 28th Precinct to add his medical records as evidence into his complaint report against § 87(2)(b) attempting to have the charge amended from harassment to assault. § 87(2)(b) spoke with Officer Talisha Jeter, shield # 3525 (name and shield number taken by § 87(2)(b) from Officer Jeter's uniform), but the officer told him to leave the precinct. § 87(2)(b) initiated another complaint to the CCRB regarding this incident with Officer Jeter and was assigned case # § 87(2)(b) § 87(2)(b)

[Enclosure 6A-C]

Results of Investigation

Civilian Witnesses

§ 87(2)(b) stated that his tenants, § 87(2)(b) and § 87(2)(b) may have witnessed Officer Davis' alleged misconduct. Several attempts were made to contact § 87(2)(b) and § 87(2)(b) who were roommates in the third floor apartment of § 87(2)(b)'s building. § 87(2)(b) received the letter the undersigned investigator sent to his residence and called the CCRB on November 24, 2004. During this conversation, § 87(2)(b) confirmed that he exited the apartment building while the officers took the statements to complete their report. § 87(2)(b) stated that he saw Officer Davis speak with § 87(2)(b) but could not hear the conversation and did not see any ambulance or EMTs at the location. § 87(2)(g)

§ 87(2)(b) never

returned the undersigned investigator's calls or answered the letters sent to her apartment. [Enclosure 20I]

§ 87(2)(g)

EMT § 87(2)(b)

§ 87(2)(b) an Emergency Medical Technician employed by the FDNY, was interviewed on April 14, 2005 at the CCRB. Although an Ambulance Call Report was not filled out for § 87(2)(b) § 87(2)(b) remembered the incident because of § 87(2)(b)'s belligerent demeanor. Additionally, he had been at the location the week prior for a job concerning a woman § 87(2)(b) believed was § 87(2)(b)'s mother, who required medical attention. According to § 87(2)(b) § 87(2)(b) would not permit anyone to help her, so they called for police assistance and were eventually able to examine his mother.

On October 9, 2004 at approximately 5:15 PM, § 87(2)(b) was working with § 87(2)(b) when they received a call for an assault with injury at § 87(2)(b). When they arrived, § 87(2)(b) observed approximately two marked patrol cars parked in front of the building. He also observed a group of police officers that were trying to calm down a man determined to be § 87(2)(b), § 87(2)(b), § 87(2)(b) could not remember how many officers were there and was unable to describe them. The officers briefly explained to § 87(2)(b) and § 87(2)(b) that it was a landlord-tenant dispute. § 87(2)(b) was walking around on the sidewalk, acting "out-of-control" by cursing and yelling. The officers told § 87(2)(b) to calm down and stand back several times because he continuously tried to interrupt them while they tried to sort out the situation. Although he did not observe any visible injuries to § 87(2)(b) § 87(2)(b) and § 87(2)(b) asked § 87(2)(b) if he needed medical treatment, and § 87(2)(b) replied that he was fine.

After speaking with § 87(2)(b) and § 87(2)(b) went upstairs to examine the tenant, § 87(2)(b) who initially refused to open his door. Eventually § 87(2)(b) opened the door, and § 87(2)(b) observed a large scratch and blood on § 87(2)(b) face, but § 87(2)(b) refused medical attention. § 87(2)(b) and § 87(2)(b) returned to the sidewalk. By then, other police officers had arrived, and § 87(2)(b) believed that one of them was the Sergeant. § 87(2)(b) remembered that there were a number of passers-by on the sidewalk, but he did not see any other tenants from the building come out onto the street.

§ 87(2)(b) did not hear any of the officers threaten to arrest § 87(2)(b) although he stated that it would not have surprised him because § 87(2)(b)'s demeanor was so belligerent. § 87(2)(b) and § 87(2)(b) left the scene 30 minutes after they had arrived because no one needed medical treatment. When they left the location, the police officers and § 87(2)(b) were still on the sidewalk. [Enclosure 7A-C]

EMT § 87(2)(b)

§ 87(2)(b) an Emergency Medical Technician with the FDNY, was interviewed at the CCRB on April 14, 2005. On October 9, 2004, § 87(2)(b) was working with § 87(2)(b) when they received a call for § 87(2)(b) § 87(2)(b) recognized the address because he and § 87(2)(b) were called to § 87(2)(b)'s apartment approximately one week previously to treat a woman who was either § 87(2)(b)'s wife or mother. The woman had passed out and when § 87(2)(b) and § 87(2)(b) arrived, § 87(2)(b) refused to permit them to treat her. § 87(2)(b) did not tell them how she sustained the injuries.

When they arrived at the location on October 9, 2004, § 87(2)(b) observed two police officers (he was unable to provide a description of the officers) and an agitated man who was pacing around the sidewalk. § 87(2)(b) and § 87(2)(b) approached the two male officers, who apprised them of situation. § 87(2)(b) and § 87(2)(b) were told that it was a landlord-tenant dispute where the landlord assaulted the tenant by punching him. The officers indicated that the agitated man on the sidewalk was § 87(2)(b), § 87(2)(b) § 87(2)(b) and § 87(2)(b) approached § 87(2)(b) on the sidewalk and asked him if he needed any medical assistance. § 87(2)(b) said that he was fine. According to § 87(2)(b)

§ 87(2)(b) was very upset, complaining to both the officers and the EMTs about his argument with the tenant. § 87(2)(b) told § 87(2)(b) that he would have to resolve the tenant problem with the officers, who were standing approximately 4 to 5 feet away. § 87(2)(b) did not observe any visible injuries on § 87(2)(b) and § 87(2)(b) never mentioned that he needed any treatment. § 87(2)(b) did not hear any of the police officers threaten to arrest § 87(2)(b) and stated that the officers did not prohibit § 87(2)(b) from speaking with the EMTs.

§ 87(2)(b) and one of the officers § 87(2)(b) believed that the officer was African American) went upstairs to check on the tenant, § 87(2)(b). At first, § 87(2)(b) refused to answer his door because he was afraid of § 87(2)(b). The officer convinced § 87(2)(b) to open his door, but § 87(2)(b) an older, heavyset man, refused to permit the EMTs to examine him. § 87(2)(b) observed that § 87(2)(b) had bloody scratches on his face, but § 87(2)(b) claimed that he did not need any treatment.

The EMTs and the officer returned to the sidewalk where § 87(2)(b) approached § 87(2)(b) and § 87(2)(b) recognizing them from the previous week. They spoke with § 87(2)(b) about the prior incident for a minute before leaving the scene. § 87(2)(b) and the officers were still standing on the sidewalk when § 87(2)(b) and § 87(2)(b) left the scene approximately 30 minutes after they had arrived. [Enclosure 8A-C]

Police Officers

Officer Brian Davis (Subject Officer)

Officer Davis was interviewed at the CCRB on January 3, 2005. On October 9, 2004, Officer Davis was working a 5:00 PM by 11:25 PM tour, in Sector C/D, with Officer Daniel Freifeld. Both officers were in uniform, and Officer Davis was driving marked patrol car # 2076. Officer Davis read his memo book entries into the record: 1726 Dispute § 87(2)(b) 1823 93C (report of crime with no arrest); 97RMA.(refused medical treatment); UF250.

At approximately 5:26 PM, Officer Davis and Officer Freifeld received a call over the radio for a dispute between a landlord and tenant at § 87(2)(b) in Manhattan. They proceeded to the address and did not see any individuals on the sidewalk when they arrived. Officer Davis and Officer Freifeld pressed the buzzer for the 911 complainant's apartment (identified through the investigation as § 87(2)(b) but § 87(2)(b) refused to come downstairs. Officer Davis and Officer Freifeld contacted the police dispatcher and requested the dispatcher call § 87(2)(b) to convince him to come downstairs to open the door. Eventually, § 87(2)(b) came down to the lobby and opened the door. Officer Davis, Officer Freifeld and § 87(2)(b) went upstairs to the hallway outside of § 87(2)(b) apartment. § 87(2)(b) an older male with gray hair, approximately 210 pounds, told the officers that he had been having ongoing problems with § 87(2)(b), § 87(2)(b). According to § 87(2)(b), § 87(2)(b) came to § 87(2)(b) apartment to speak with him. When § 87(2)(b) exited his apartment, § 87(2)(b) attacked and punched § 87(2)(b) who fled back inside of his apartment and called 911. Officer Davis and Officer Freifeld recorded § 87(2)(b) statement, but did not speak with or see witnesses in the hallway. Officer Davis noticed some redness and abrasions on § 87(2)(b) face and asked § 87(2)(b) if he needed an ambulance, but § 87(2)(b) refused. However, because of § 87(2)(b) advanced age, Officer Davis ordered the ambulance as a precaution.

Officer Davis, Officer Freifeld and § 87(2)(b) went downstairs to wait for the ambulance. When they arrived at the lobby, they found that § 87(2)(b) had emerged from his basement apartment. Officer Freifeld took § 87(2)(b) out to the sidewalk while Officer Davis stayed inside the lobby with § 87(2)(b) to finish taking his statement. For safety reasons, the door of the building was kept open, and Officer Davis had a clear view of Officer Freifeld and § 87(2)(b). Officer Davis saw § 87(2)(b) gesturing wildly with his arms but did not hear what was said. Another squad car containing Detective Finnigan and his partner arrived on the scene while Officers Davis and Freifeld were taking statements, but Officer Davis did not see Detective Finnigan exit his patrol car or speak with § 87(2)(b). Officer Davis

explained that for jobs such as disputes, another squad car would come by to ensure the safety of the responding officers. Officer Davis had no idea how § 87(2)(b) obtained Detective Finnigan's name.

Fifteen minutes after calling for medical assistance, the ambulance arrived and the Emergency Medical Technicians (EMTs) came inside the lobby to examine § 87(2)(b). Through the open door, Officer Davis heard § 87(2)(b) complain loudly that he wanted to speak with the EMTs also. Officer Davis did not hear § 87(2)(b) request medical assistance prior to the ambulance's arrival on the scene and believed that § 87(2)(b) only requested medical assistance once he saw that § 87(2)(b) was treated. When the EMTs finished examining § 87(2)(b) they returned to the sidewalk. Through the open door, Officer Davis saw § 87(2)(b) approach the EMTs and speak with them for a few minutes.

Officer Davis finished speaking with § 87(2)(b) and joined Officer Freifeld and § 87(2)(b) who was still very agitated and gesturing wildly, on the sidewalk. Officer Davis told § 87(2)(b) that he needed to calm down and that if § 87(2)(b) did not comply, he would receive a summons for causing a public disturbance. Officer Davis stated that he did not threaten to arrest § 87(2)(b) if he did not calm down. § 87(2)(b) appeared to understand this but continued to gesture wildly. Officer Freifeld reiterated Officer Davis' warning to § 87(2)(b). Officer Davis did not deny § 87(2)(b) the opportunity to speak with the EMTs, physically or verbally. According to Officer Davis, § 87(2)(b) had already spoken to the medical personnel by the time Officer Davis came outside.

The ambulance left without transporting anyone to the hospital. Officer Davis did not speak with any witnesses or see any other tenants from the building during the incident. Officer Davis believed that the Stop and Frisk Report listed in his memo book was in connection with the next job. No one was arrested in connection with this incident as it was considered aggravated harassment, which is a violation and therefore did not constitute an arrest. The officers were not required to fill out an Aided Card due to the fact that § 87(2)(b) had refused medical attention. [Enclosure 9A-E]

Officer Daniel Freifeld (Witness Officer)

Officer Freifeld was interviewed at the CCRB on January 6, 2005. On October 9, 2004, Officer Freifeld was working with Officer Brian Davis on a 3:00 PM by 11:25 PM tour. Both officers were in uniform and assigned patrol car # 2076. Officer Freifeld was the recorder during the tour. Officer Freifeld read his memo book entries into the record: 1726 Dispute § 87(2)(b) 1823 93C (report of crime with no arrest); 97RMA.(refused medical treatment); UF250.

On the evening of October 9, 2004, at approximately 5:26 PM, Officer Freifeld and Officer Davis received a call for a dispute at § 87(2)(b). When they arrived, Officer Davis parked the patrol car in front of the building and both officers approached the building. They were unable to get into the building and attempted to ring the bell for the apartment of the 911 caller. When they received no answer, Officer Davis asked the police dispatcher to contact the 911 caller to gain access to the apartment. The 911 caller (identified later as § 87(2)(b)) came downstairs to open the door; § 87(2)(b) conveyed to the officers that he was terrified of § 87(2)(b), § 87(2)(b). Officer Freifeld asked § 87(2)(b) if § 87(2)(b) had a firearm, and § 87(2)(b) answered that he believed that § 87(2)(b) was carrying a gun. Officer Freifeld and Officer Davis stood in the lobby of the building with § 87(2)(b) as he explained what had transpired: § 87(2)(b) and two other gentlemen came to § 87(2)(b) door to deliver mail. § 87(2)(b) asked § 87(2)(b) to come out into the hallway where § 87(2)(b) and the two other men attacked him. § 87(2)(b) was able to get away from the men and fled into his apartment where he called 911. Officer Freifeld did not see any visible injuries on § 87(2)(b) and when asked, § 87(2)(b) refused medical assistance. Despite his refusal, Officer Davis called for an ambulance although Officer Freifeld did not know. While they stood inside the building lobby, § 87(2)(b) exited his basement apartment and remained on the sidewalk, speaking with Detective Finnigan and Officer Basile, who had arrived as back up officers while Officers Freifeld and Davis spoke with § 87(2)(b). Although Officer Freifeld could see Detective Finnigan, Officer Basile and § 87(2)(b) through the open door from the lobby of the building, he could not hear what they were discussing. Officer Freifeld and Officer Davis spoke with § 87(2)(b) for approximately 10-15 minutes in the lobby before Officer Freifeld brought § 87(2)(b) outside to fill out a Complaint Report.

As he came outside, Sergeant Michael Perrin, the patrol supervisor who had pulled up to the scene, told Officer Freifeld to fill out a Complaint Report for harassment. Sergeant Perrin immediately left while Officer Freifeld filled out the Complaint Report from his patrol car with Officer Davis and § 87(2)(b). Detective Finnigan and Officer Basile continued to speak with § 87(2)(b) but Officer Freifeld did not pay attention to what they were saying. The ambulance arrived while Officer Freifeld filled out the Complaint Report paperwork. Officer Freifeld did not remember observing § 87(2)(b) approach the ambulance or talk to the EMTs. Officer Freifeld finished taking § 87(2)(b) statement, and § 87(2)(b) went over to the ambulance. Officer Freifeld stated that § 87(2)(b) was only at the ambulance for a couple of seconds before he exited and requested an officer to escort him upstairs because he was still visibly terrified of § 87(2)(b). Officer Davis stayed downstairs with Detective Finnigan, Officer Basile and § 87(2)(b) while Officer Freifeld escorted § 87(2)(b) upstairs.

When Officer Freifeld returned, Detective Finnigan informed him that § 87(2)(b) did not have a weapon and told Officer Freifeld to fill out a Stop and Frisk Report and a Complaint Report for § 87(2)(b) before leaving the scene with Officer Basile. Officer Freifeld took § 87(2)(b) to the patrol car to begin filling out the paperwork, when he observed that § 87(2)(b) was very agitated. § 87(2)(b) asked Officer Freifeld about the paperwork and Officer Freifeld explained that he was filling out a Stop and Frisk Report because he had been stopped and questioned by police officers. § 87(2)(b) became extremely agitated, pulling at his hair and kicking the fender of the patrol car, yelling that § 87(2)(b) was the reason that his wife was hospitalized. § 87(2)(b) asked Officer Freifeld to arrest § 87(2)(b) and put him in jail. Officer Freifeld told § 87(2)(b) to calm down because he was acting disorderly and was subject to arrest. § 87(2)(b) calmed down, and Officer Freifeld explained to § 87(2)(b) that they could not arrest § 87(2)(b) because they did not observe the altercation and there was no evidence that § 87(2)(b) put § 87(2)(b) in the hospital. According to Officer Freifeld, § 87(2)(b) became upset again, pulling his hair and yelling. According to Officer Freifeld, in order to complete the paperwork, he had to tell § 87(2)(b) to calm down two or three times or he would be arrested. § 87(2)(b) calmed down and explained his account of the incident, which was nearly identical to § 87(2)(b) story, except that § 87(2)(b) stated that § 87(2)(b) initially attacked him. The ambulance left the scene while Officer Freifeld finished writing the reports and handed § 87(2)(b) an "Incident Information Slip" with the instructions to take the slip to 100 Centre Street to get an order of protection against § 87(2)(b). § 87(2)(b) shook Officer Freifeld's hand. Although Officer Davis stood with Officer Freifeld and § 87(2)(b) the entire time, Officer Freifeld did not remember if Officer Davis spoke with § 87(2)(b). Officer Freifeld did not notice any injuries on § 87(2)(b) and he did not hear § 87(2)(b) ask to speak with the EMTs. Officer Freifeld stated that he did not remember observing § 87(2)(b) speak to the EMTs, but stated that he was concentrating on filling out the Complaint Report paperwork and did not notice what was happening around him. As Officer Freifeld finished writing the Complaint Report, an unidentified male and female exited the building to comfort § 87(2)(b) and took him inside of the building. Officer Freifeld did not speak with these two people before he and Officer Davis left the scene. [Enclosure 10A-E]

Detective James Finnigan (Subject Officer)

Detective James Finnigan was interviewed at the CCRB on January 18, 2005. On October 9, 2004, Detective Finnigan worked a 3:00 PM by 11:35 PM tour with Officer Nicholas Basile, and both officers were dressed in uniform. Detective Finnigan read his memo book entries into the record: *1731 Backup for a 10-52 (dispute) § 87(2)(b) 98 (resume patrol), handled by 28C*

At approximately 5:31 PM, Detective Finnigan and Officer Basile received a call for a domestic dispute at § 87(2)(b) possibly involving a man with a gun. Officers Davis and Freifeld took the call, but Detective Finnigan and Officer Basile responded to the scene as back up. When they arrived, Detective Finnigan observed Officers Davis and Freifeld standing on the top stairs of the entrance to the brownstone. An older male, approximately 5'9, was standing outside of the building on the sidewalk. Detective Finnigan later learned that this was § 87(2)(b) § 87(2)(b). Officers Davis and Freifeld told Detective Finnigan that they were going inside the building to locate the 911 caller and asked Detective Finnigan to speak with § 87(2)(b). Detective Finnigan and Officer Basile spoke to § 87(2)(b) who

was very upset. § 87(2)(b) told Detective Finnigan that his wife was very sick and that he “couldn’t take it anymore”. Detective Finnigan tried to calm § 87(2)(b) but § 87(2)(b) was inconsolable. § 87(2)(b) did not tell Detective Finnigan that he had injuries and needed medical assistance. Detective Finnigan did not observe any visible injuries on § 87(2)(b) and did not call for an ambulance. Although the original call out claimed that the landlord was carrying a firearm, Detective Finnigan could tell that § 87(2)(b) was not carrying a gun in the clothes that he was wearing, and decided that he did not need to search him.

Officers Davis and Freifeld exited the building and told Detective Finnigan that the case was a landlord-tenant dispute so they did not need their assistance. Detective Finnigan did not tell either Officer Davis or Officer Freifeld to fill out a Stop and Frisk Report. Detective Finnigan and Officer Basile left the location without seeing any other officers or the ambulance. Detective Finnigan never saw the tenant, § 87(2)(b) and did not overhear the conversation between § 87(2)(b) and Officers Davis and Freifeld. [Enclosure 11A-E]

Officer Nicholas Basile and Sergeant Michael Perrin (Witness Officers)

Officer Nicholas Basile was not interviewed as a witness officer in this case. During the investigation, it was discovered the Officer Basile resigned from the NYPD on January 3, 2005. § 87(2)(g)

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CCRB Histories

This was § 87(2)(b)'s first complaint to the CCRB. § 87(2)(b) [Enclosure 1A; 5A] Neither Officer Davis nor Detective Finnigan have Substantiated CCRB cases. [Enclosure 2B-G]

Police Documents

Stop and Frisk Report

The Stop and Frisk Report and Stop and Frisk Logs from the 28th Precinct were not obtained in connection with this case. § 87(2)(b)'s only allegations against Detective Finnigan and Officer Davis concerned his belief that the officers refused to let him seek out medical treatment from the EMTs and threatened to arrest him. § 87(2)(b) did not mention that he was detained and frisked by any of the officers and did not allege that they participated in any type of misconduct concerning a frisk or a search.

Roll Call

The 28th Precinct Roll Call for October 9, 2004, indicates that Officer Davis and Officer Freifeld were assigned to Sector C/D in patrol car 2076. Detective Finnigan and Officer Basile were assigned to Sector A/B in patrol car 1387. Sergeant Perrin was assigned as the patrol supervisor from 2:50 PM until 11:47 PM. [Enclosure 15A-B]

Communications Documents

At approximately 5:21 PM on October 9, 2004, § 87(2)(b) called 911 to report that two men were fighting in the hallway of her apartment building. § 87(2)(b) reported that she did not know if there were any weapons or injuries and stated that she did not actually observe the fight, but heard someone say, “Call the police!” At approximately 5:23 PM, § 87(2)(b) called 911 to report that § 87(2)(b) attacked him in the hallway of their apartment building. Initially, § 87(2)(b) claimed that there were no weapons used and he did not need medical assistance. However, according to radio transmissions between Officers Davis and Freifeld and the police dispatcher, the dispatcher called § 87(2)(b) to convince him to leave his

apartment and open the door for the officers. § 87(2)(b) replied that he was too afraid to exit his apartment and the dispatcher asked § 87(2)(b) if § 87(2)(b) had a weapon. § 87(2)(b) claimed that § 87(2)(b) did have a weapon on him and stated that § 87(2)(b) has been known to carry a gun. The police dispatcher relayed this information to Officers Davis and Freifeld. [Enclosure 14A-G]

Incident Information Slip

§ 87(2)(b) provided a copy of the Incident Information Slip during his CCRB interview on October 18, 2004. The Incident Information Slip indicates that at 5:27 PM on October 9, 2004, Officer Freifeld, shield number 31501, completed Complaint Report # § 87(2)(b) for Harassment at § 87(2)(b) [Enclosure 17]

Complaint Reports

Officer Freifeld filled out Complaint Report # § 87(2)(b) on October 9, 2004 on behalf of § 87(2)(b) against § 87(2)(b) for misdemeanor assault. The complaint narrative states the following: At time and place of occurrence, complainant § 87(2)(b) was involved in a verbal altercation with perpetrator § 87(2)(b). § 87(2)(b) states § 87(2)(b) punched and kicked him. § 87(2)(b) sustained minor scratches to his face. § 87(2)(b) refused medical attention. § 87(2)(b), § 87(2)(g) § 87(2)(b). Officer Freifeld also filled out Complaint Report # § 87(2)(b) on October 9, 2004 on behalf of § 87(2)(b) against § 87(2)(b) for Harassment, a violation. The narrative states the following: At time and place of occurrence, complainant § 87(2)(b) states that perpetrator § 87(2)(b) grabbed, punched and kicked him. § 87(2)(b) states they had a verbal argument prior to incident. § 87(2)(b) sustained no injuries. This complaint report lists § 87(2)(b) correct year of birth as § 87(2)(b) [Enclosure 18A-C; 19A-C]

Medical Records

An attempt was made to acquire the Ambulance Call Report from the FDNY to determine the identities of the Emergency Medical Technicians who responded to the call. The investigation was unable to produce an Ambulance Call Report for this incident as it was determined that the ambulance was called on behalf of § 87(2)(b) who was not interviewed and therefore did not sign a medical release. § 87(2)(b) of the FDNY Court Desk and Litigation Support Unit provided the investigation with paperwork stating that an ACR for § 87(2)(b) was not found. However, § 87(2)(b) also provided documents noting the names and badge numbers of the Emergency Medical Technicians, § 87(2)(b) and § 87(2)(b) who responded to the call. [Enclosure 13A-D]

§ 87(2)(b) went directly to § 87(2)(b) on § 87(2)(b) and was examined by § 87(2)(b) at § 87(2)(b). § 87(2)(b) ordered an EKG, with radiologist § 87(2)(b), and prescribed Motrin and Vicodin for pain and swelling in the chest. The results of the EKG were read on § 87(2)(b) and diagnosed bruising in § 87(2)(b)'s ribs and diaphragm muscles. [Enclosure 12A-K]

Conclusions and Recommendations

Officer Identification

§ 87(2)(b) specifically attributed the misconduct to Detective Finnigan and Officer Davis, whom he was able to identify by their nameplates on their uniforms. Additionally, § 87(2)(b) was able to easily distinguish between Officer Davis and Officer Freifeld as he identified Officer Davis as the only African American officer at the scene. The 28th Precinct Roll Call from October 9, 2004, verified that Officer Davis, Officer Freifeld and Detective Finnigan were working at the time of the incident.

Undisputed facts

§ 87(2)(b) and § 87(2)(b) engaged in a struggle in the hallway of § 87(2)(b) in Manhattan. Two tenants separated them, and a third tenant, § 87(2)(b) called 911. § 87(2)(b) also called 911 to report the attack. Officers Davis and Freifeld responded to the call, as well as Detective Finnigan and Officer Basile. Officer Davis called for an ambulance while Officer Freifeld filled out Complaint Reports for both § 87(2)(b) and § 87(2)(b).

Credibility Assessment

§ 87(2)(g)
§ 87(2)(b) s
chief complaint was that the police officers of the 28th Precinct neglected to assist him concerning his conflict with § 87(2)(b) which led to his wife's current hospitalization. § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

§ 87(2)(g)
§ 87(2)(b) Officer Davis stated that he and Officer Freifeld spoke to § 87(2)(b) upstairs at § 87(2)(b) apartment and in the lobby of the building, while Officer Freifeld claimed that § 87(2)(b) came outside so that he could provide his statement for the Complaint Report. Officer Freifeld also claimed that Detective Finnigan had lengthy contact with § 87(2)(b) and instructed Officer Freifeld to fill out a Stop and Frisk Report before Detective Finnigan and Officer Basile left the scene. However, both Officer Davis and Detective Finnigan asserted that Detective Finnigan was only at the location for a short period of time. Detective Finnigan denied instructing Officer Freifeld to fill out a Stop and Frisk Report as he had only brief verbal contact with § 87(2)(b) § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

§ 87(2)(g)
§ 87(2)(b) specifically remembered the incident because of the bizarre, aggressive behavior of § 87(2)(b). Both § 87(2)(b) and § 87(2)(b) confirm Officer Davis' claim that they spoke with § 87(2)(b) when they initially arrived, before they ever examined § 87(2)(b) stating that § 87(2)(b) told them that he was "fine" when they inquired if he needed medical assistance. § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)

Allegation A: Detective James Finnigan did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) alleged that Detective Finnigan refused to permit him to speak with § 87(2)(b) and § 87(2)(b) the Emergency Medical Technicians, concerning the injuries that he sustained during the struggle with § 87(2)(b). However, Detective Finnigan stated that § 87(2)(b) never mentioned that he needed any medical assistance and claimed that the ambulance had not arrived to the location by the time that Detective Finnigan left the scene. § 87(2)(b) supported this statement, claiming that there were only two officers on the scene when they arrived, one an African American male, who was identified by § 87(2)(b) as Officer Davis. § 87(2)(g)
§ 87(2)(b)

Allegation B: Officer Brian Davis did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) claimed that Officer Davis physically and verbally restrained him from speaking with the Emergency Medical Technicians when they arrived on the scene. Officer Davis explained that when the ambulance arrived, he was still inside the lobby with § 87(2)(b) and watched through the door as § 87(2)(b) spoke with the EMTs. § 87(2)(b) and § 87(2)(b)'s statements that they initially approached § 87(2)(b) on the sidewalk and asked him if he needed any medical assistance support Officer Davis' account. When § 87(2)(b) told them that he was fine, they proceeded into the building to examine § 87(2)(b). § 87(2)(b) § 87(2)(g)

Allegation C: Officer Brian Davis threatened to arrest § 87(2)(b)

§ 87(2)(g)

Officer Davis admits that he initially warned § 87(2)(b) that he was going to be issued a summons if he did not calm down, but claimed that he did not threaten to arrest him. § 87(2)(g)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: